Supreme Court, U.S.
FILED
JUL 21 2005
OFFICE OF THE CLERK

No. 04-928

In the Supreme Court of the United States

STATE OF OREGON,

Petitioner,

v.

RANDY LEE GUZEK,

Respondent.

Petition for Writ of Certiorari to the Oregon Supreme Court

JOINT APPENDIX VOLUME I

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PETITION FOR CERTIORARI FILED January 5, 2005
CERTIORARI GRANTED April 25, 2005

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Deschutes County Circuit Court

Case# 87CR0373TM Oregon State of/Guzek Randy Lee
Offense Felony – Aggravated Murder

Case Filed Date 7/10/87	Starting Instrument Indictment
Case Started Date 7/16/87	Originating From Original filing
1st Appearance Date 7/16/87	Originating Agency
Ready for Trial	Originating Agency#
First Setting Date 2/01/88	Previous Court
Trial Scheduled Date	Previous Court Case #
Trial Start Date	Previous Decision
Length of Trial 17 D	Master Case Number
Disposition Date 7/25/91	Relation to Master
Final Order Date 4/06/98	Termination Stage
Reinstated Date 2/26/96	Termination Type
Citation in Lieu #	Judgment Type
District Attorney	Judgment Status
Booking#	Judgment Volume/Page

___ **Role** _____	**Plaintiff** _____	**Attorney**
1 **Plaintiff**	**Oregon State of**	**Marquis Joshua**

___ **Role** _____	**Defendant**	
1 **Defendant**	**Guzek Randy Lee**	**Birth Dt**
Sex		Hght/Wght
Drivers License		Hair
Phone#		Eyes
Control#		Race
Address		

6	Crt Appntd	Mallon Gordon	Bar# 84282
7	Crt Appntd	Rader Mark S.	Bar# 73241

1 ORS 163095 Aggravated Murder–A/DEA
Incident Date 7/10/87
Date Charged/Issued 7/10/87 Citation#
Current Plea Security
Disposition 7/25/91 Convicted Plate#

10 Judgment Date
7/25/91

Status
Judge Mosgrove Thomas M Signed
Sentenced To Death 7/25/91
JUDGMENT VACATED
11-8-04

2 ORS 163095 Aggravated Murder–A/DEA
Incident Date 7/10/87
Date Charged/Issued 7/10/87 Citation#
Current Plea Security
Disposition 7/25/91 Convicted Plate#

12 Judgment Date
7/25/91

Status
Judge Mosgrove Thomas M Signed
7/25/91

Sentenced To Death Signed
7/25/91

3 ORS 163095 Aggravated Murder–A/DEA
Incident Date 7/10/87
Date Charged/Issued 7/10/87 Citation#
Current Plea Security
Disposition 7/25/91 Convicted Plate#

3 Judgment Date
3/21/88

Status
Judge Mosgrove Thomas M — Signed
CONVICTION VACATED. — 3/18/88

4 ORS 163095 Aggravated Murder–A/DEA
Incident Date 7/10/87
Date Charged/Issued 7/10/87 — Citation#
Current Plea — Security
Disposition 7/25/91 Convicted — Plate#

4 Judgment — Date 3/21/88

Status
Judge Mosgrove Thomas M — Signed
CONVICTION VACATED. — 3/18/88

5 ORS 163095 Aggravated Murder–A/DEA
Incident Date 7/10/87
Date Charged/Issued 7/10/87 — Citation#
Current Plea — Security
Disposition 7/25/91 Convicted — Plate#

5 Judgment — Date 3/21/88

Status
Judge Mosgrove Thomas M — Signed
CONVICTION VACATED. — 3/18/88

6 ORS 164415 Robbery-1–A/FEL
Incident Date 7/10/87
Date Charged/Issued 7/10/87 — Citation#
Current Plea — Security
Disposition 7/25/91 Convicted — Plate#

6 Judgment — Date 3/21/88

Status
Judge Mosgrove Thomas M — Signed
CONVICTION VACATED. — 3/18/88

7 ORS 164415 Robbery-1–A/FEL
Incident Date 7/10/87
Date Charged/Issued 7/10/87 — Citation#
Current Plea — Security
Disposition 7/25/91 Convicted — Plate#

7 Judgment — Date 3/21/88

Status
Judge Mosgrove Thomas M — Signed
CONVICTION VACATED. — 3/18/88

8 ORS 164225 Burglary-1 – A/FEL
Incident Date 7/10/87
Date Charged/Issued 7/10/87 — Citation#
Current Plea — Security
Disposition 7/25/91 Convicted — Plate#

8 Judgment — Date 3/21/88

Status
Judge Mosgrove Thomas M — Signed
CONVICTION VACATED. — 3/18/88

9 ORS 164055 Theft-1 – C/FEL
Incident Date 7/10/87
Date Charged/Issued 7/10/87 — Citation#
Current Plea — Security
Disposition 7/25/91 Convicted — Plate#

9	Judgment		Date 3/21/88
	Status		
	Judge Mosgrove Thomas M		Signed
	CONVICTION VACATED.		3/18/88

___	**Role** _____	**Other People** _____	**Attorney**
1	Reporter	Eusebio Gene	
2	Reporter	Callaghan Cadrolyn	
3	Reporter	Dahlke Sharon	
4	Reporter	Dickinson Dalee	
5	Reporter	Roberts Janet	
6	Reporter	Butler Caroylyn	
7	Reporter	Wilson Kelley	
8	Reporter	Fagan Mary	
9	Reporter	Irvin Liz	
10	Reporter	Behrens Carri	
11	Reporter	Wilson Cindi	

RELEVANT DOCKET ENTRIES

DOCKET NUMBER	ENTER DATE	FILE DATE	EVENT/FILING/ PROCEEDING
1	7/20/87	7/10/87	Indictment
3	7/20/87	7/16/87	Return of Service Warrant
4	7/20/87	7/20/87	Arraignment Scheduled
5	7/20/87	7/15/87	Complaint Amended
6	7/20/87	7/16/87	Arraignment
132	1/21/88	1/12/88	Notice of intent to rely on alibi evidence
133	1/21/88	1/15/88	Notice (amended) of intent to rely on alibi evidence

DOCKET NUMBER	ENTER DATE	FILE DATE	EVENT/FILING/ PROCEEDING
645	8/22/97	8/20/97	Notice of intent to rely on evidence of alibi as mitigating evidence
647	8/22/97	8/20/97	Notice of intent to rely on evidence of alibi as mitigating evidence (Filed by Randy Lee Guzek)
746	10/20/97	10/09/97	Motion to make record complete by reassertion and incorporation (Filed by Randy Lee Guzek
833	12/12/97	10/21/97	Memorandum in support of admissibility of mitigating evidence
872	12/12/97	10/24/97	Memorandum in support of admissibility of mitigating evidence
884	12/12/97	10/30/97	Memorandum in support of admissibility of mitigating evidence
891	12/12/97	11/04/97	Order to make record complete by reassertion and incorporation (Signed 11/4/97 by Judge Pierre Van Rysselberghe)

Oregon Supreme Court

Case# S45272 Oregon State of/Guzek Randy Lee
Appeal Death Sentence

Case Filed Date 4/23/98
Case Started Date 4/23/98
At Issue Date 12/10/01
Argued/Submit Date 1/11/02

Starting Instrument Appellate Notice Filing
Originating From Lower court appeal
Previous Court Deschutes Co Circuit Court
Previous Court Case #87CR0373TM
PrevCourt Dcsn 12/12/97
Master Case Number
Relation to Master
Decision Other

Dcsn/Dismiss Date 3/04/04
Apl/Jdgmt/Close Date 11/5/04
Reinstated Date

___	Role	_____	Plaintiff	_____	Attorney/Bar Number
1	Plaintiff		Oregon State of		Rocklin Robert B 90369 Moan Rolf C 92407 Vance Holly Ann 97103

___	Role	_____	Defendant	_____	Attorney/Bar Number
1	Defendant		Guzek Randy Lee		Guzek Randy Lee Hunt John Kevin 84252 Wolf Richard L 87371

___	Role	_____	Other People	___	Attorney/Bar Number
1	RPT	INAC	Deschutes Transcript Coordinator		

2	RPT	INAC	Caverhill Mary Lou
3	RPT	INAC	Bonkosky Amy
4	RPT	INAC	Phillips Linda
5	RPT	INAC	Clark Pam
6	RPT	INAC	Lundgren Margie
7	RPT	INAC	Rudishauser Cindy
8	Reporter		Brookhart Liz
9	Reporter		Nutting Karen
10	Reporter		Pruitt Mona

RELEVANT DOCKET ENTRIES

DOCKET NUMBER	ENTER DATE	FILE DATE	EVENT/FILING/ PROCEEDING
1	4/27/98	4/23/98	Appellate Notice Filing AUTOMATIC REVIEW; TRPF 60 DA IMP 8 & IMP 9;6/22/98 (Judge Pierre Van Rysselberghe) Related event #4
2	4/27/98	12/12/97	Decision – Previous Court
3	4/27/98	4/27/98	Letter of Supreme Court TO GUZEK, R; RIGHT TO APPOINTED COUNSEL IF INDIGENT; RQ CMPLTD AFIN RTRND TO SC 14DA; LET SC KNOW IF REPRESENTED BY COUNSEL
28	1/10/00	1/06/00	Motion INCORPORATE PRIOR ASSIGNMENTS OF

DOCKET NUMBER	ENTER DATE	FILE DATE	EVENT/FILING/ PROCEEDING
			ERROR, APP & ARGU BY BY REFERENCE IN BROP (Filed by John Kevin Hunt) (Denied 1/19/00)
30	1/11/00	1/11/00	Answer Motion (Filed by Robert B. Rocklin) Related event #28
31	1/14/00	1/11/00	Motion FOR SUPERVISORY ORDER (Filed by John Kevin Hunt) (Denied 2/01/00) Related event #34
32	1/19/00	1/19/00	Order Supreme Court DENY MO INCORP; ALLOW EXTENDED BROP Related event #28 Related event #29
34	2/01/00	2/01/00	Order Supreme Court DENY MOTION Related event #31
62	10/11/00	10/10/00	Brief Opening W/SEPARATE VOL 2 (APPENDICES) BRRS ATY1 ~~90 D~~A 1/8/01 CTA Hunt John Kevin
86	12/11/01	12/10/01	Brief Respondent AAG Rocklin Robert B AAG Moan Rolf C

DOCKET NUMBER	ENTER DATE	FILE DATE	EVENT/FILING/ PROCEEDING
			AAG Vance Holly Ann
87	12/11/01	12/10/01	Issue/at Issue
88	12/11/01	12/11/01	Hearing Oral Argument Scheduled 1/11/02 8:45 am
91	12/31/01	12/28/01	Additional Authorities CTA Cumfer Eric M
95	1/10/02	1/10/02	Additional Authorities AAG Moan Rolf C
96	1/11/02	1/11/02	Argument
100	5/19/03	5/15/03	Motion PERMIT SUPPLEMENTAL BRIEFING (Filed by Eric M. Cumfer) (Denied 6/10/03)
102	6/10/03	6/10/03	Order Supreme Court DENY MO FOR SUPPL BRIEFING; DENY MOET TO FI ANMO Related event #100 Related event #101
104	3/04/04	3/04/04	Opinion RIGGS; VAC SENTENCE OF DEATH; REM FOR FURTH PROC; PTRC 3/25/04
105	3/04/04	3/04/04	Opinion Concurring DURHAM
106	3/04/04	3/04/04	Opinion Dissenting

DOCKET NUMBER	ENTER DATE	FILE DATE	EVENT/FILING/ PROCEEDING
			GILLETTE; IN PT; CARSON J JOINED
121	7/02/04	7/01/04	Petition for Reconsideration (Filed by Richard L. Wolf) (Denied 9/8/04) Related event #104
124	9/08/04	9/8/04	Reconsideration Denied KISTLER, J., NOT PARTICIPATING Related event #121
125	9/14/04	9/14/04	Motion STAY ISSUANCE OF JGAL (Filed by John Kevin Hunt) (Denied 10/14/04)
126	10/14/04	10/14/04	Order Supreme Court DENY MO STAY JGAL Related event #125
127	11/05/04	11/05/04	Judgment Appellate
128	11/05/04	11/05/04	Closed
129	12/03/04	12/02/04	Notice TIME EXTENDED IN USSC TO FI PT FOR WRIT OF CERTIORARI BY 1-6-05
130	12/28/04	12/28/04	Notice PT FOR WRIT OF CERTIORARI FI 12/7/04
131	1/10/05	1/10/05	Notice PT FOR WRIT OF CERTIORARI ON USSC

DOCKET NUMBER	ENTER DATE	FILE DATE	EVENT/FILING/ PROCEEDING
			DOCKET AS # 04-928
132	4/44/05	4/21/05	Notice Denying Certiorari 4/18/05; #047698 Related event #131
133	4/28/05	4/28/05	Notice PT FOR WRIT OF CERTIORARI IS GRANTED; MO TO PROCEED IN FORMA PAUPERIS GRANTED IN USSC 4/25/05
134	4/29/05	4/29/05	Letter of Supreme Court RQRC; USSC CERT GRANTED Related event #133
135	5/06/05	5/06/05	Miscellaneous 12FI; 1BX EX @ CAROL'S DESK IF USSC REQUIRES THE RCCD Related event #134
136	6/20/05	6/20/05	Notice PT FOR REHEARING DENIED IN USSC 6/13/05

Transcript of Grand Jury Proceedings October 23, 1987

[Page 1]

MR. BROWN: Today's date is the 23rd of October, 1987. It's about 11:15 a.m. We're in the grand jury room of the Deschutes County District Attorney's office. Present is the Deschutes County Grand Jury inquiring into the matter of the murders of Rod and Lois Houser. I want to inform everyone here that this is being tape recorded.

* * * * *

[Page 121]

KATHLEEN GUZEK, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. BROWN:

Q. You're Kathleen Guzek?

A. Yes.

Q. And I just wanted to let you know that you're being tape recorded here along with all the other people that have come in.

A. Okay.

Q. And you live out on Walnut Street?

A. Yes.

Q. 4678?

[Page 122]

A. 267

Q. 267 Walnut.

A. Northeast Walnut.

Q. Yes, in Redmond?

A. Yes.

Q. And you're Randy's mother?

A. Uh-huh

* * * * *

[Page 124]

Q. All right. We're particularly interested in where you were and where Randy Guzek was the night of the Houser homicides. When did you first hear about the fact that the Housers had been murdered?

A. I believe on the telephone Randy had told me that somebody had questioned him or talked to him about Ann Houser who's their niece.

Q. Uh-huh.

A. And that was probably – going back it's difficult. I believe it was like Wednesday night. It was the night he had been questioned by some detective. He had called me on the phone and told me that Ann Houser's aunt and uncle had been murdered and that somebody had questioned him [Page 125] in regards to had Ann contacted him or something to that effect.

Q. Uh-huh.

A. And –

Q. Had you read about it in the paper yourself?

A. I do not get a paper so –

Q. Sure.

A. -- that was the first I knew of it is when Randy had called me on the phone. Randy had been questioned.

Q. And you, you knew Ann yourself?

A. She had been at my house one time.

* * * * *

[Page 127]

Q. Okay. What do you remember about the weekend before finding out about the Housers? Before Randy called you and said that the detectives had been over talking to him.

A. We didn't have any reason to go over this until the – Mr. Frederickson had come up the day of the search warrant and that was July 9 I believe?

A. Correct.

Q. And when he was asking Danny his whereabouts I was trying to remember and Danny then was trying to retrace his steps and I was trying to remember and we determined that was the last time I had two days in a row off, in that period of time. I had Sunday and Monday and that Sunday we were burning leaves, Randy and I and it was rather hot and while we were burning leaves Joel and (inaudible) children came up and were over at the big van, I don't know doing what but we were burning leaves and her kids came over and probably –

Q. I'm sorry, which day are we on now, Sunday?

A. Uh-huh.

Q. Okay.

A. And probably (inaudible) it got hot. I got real hot and we kind of shut down the burning and I felt like I was [Page 128] going to have heat stroke so I laid down on the couch. I didn't even wash, I (inaudible).

Q. Sure.

A. And Danny and Willy (inaudible). They wanted to go hiking or they were going to scout up in the Ochocos for deer hunting. (Inaudible) And they went up to scout it out, the area (inaudible).

Q. What time do you think they left?

A. I would assume, just roughly figuring (inaudible).

Q. Okay. What do you recall happening after that?

A. The next thing I recall that day was Randy coming (inaudible) and woke me up. The sun was going down or it was -- I did not look at a clock but it was -- I looked outside and the sun still shown where we burned because I was concerned, so I ask him if would go and water down the hot spots again (inaudible). And we looked out there and I didn't see any but I wanted him to go out and (inaudible). And I told him (inaudible). And he wanted me to go over to his grandfather's house to talk with him because he was going to make a deal, Randy wanted to buy his motor home. I said, I'm just so tired, Randy, I said, why don't you just go on over. And I said, if you need me I can come over later. He went out, I saw him go out and he was over watering down the hot spots and I fell back to sleep.

[Page 129]

Q. You had been asleep before he got there and you fell back to sleep after he went outside?

A. Uh-huh. Yes.

Q. Okay.

A. I fell asleep (inaudible).

Q. Okay. Was anybody else home during this –

A. Not at that point, no.

Q. Okay.

A. After he watered it down he came back and asked again if I wanted to go over with him and I said not now (inaudible). And the next thing I remember is Danny and Willy coming home and they were hungry and wanted me to fix them something to eat. And it was a quarter till 11 (inaudible) that late. And Danny said how about pizza (inaudible) said yeah so Danny went and called Pietro's and he says well we'll have to get it go, they'll have it ready but we'll have to get it to go because they close at 11. So Danny and Willy went in to get the pizza and then they came back. I was still on the sofa and they wanted to watch some sports show that comes on, Sports Wrap Up or something so that was my cue they wanted me to leave the couch and go to bed, which I did.

Q. What time do you think that was?

A. Oh, probably 11:15, something like that.

Q. So who was there at that time?

[Page 130]

A. At the time I went to bed?

Q. Yeah.

A. Danny and Willy left in the house.

Q. Now, Mr. and Mrs. – Jenny and Clarence are Joel's parents, correct?

A. Yes. And they live in a bus that they made over into a (inaudible) that's parked in the back side of the parking lot.

* * * * *

[Page 130]

Q. Okay.

A. After that when I'd gone to bed Willy left after a while and – I'm not sure, I would think about midnight that Willy drove off (inaudible).

Q. So you didn't see him leave but you heard him leave, is that –

A. I heard him leave, yes.

Q. Did that wake you up or were you already awake?

A. I was probably just on – kind of in a semi state of sleep but I heard the vehicle start and (inaudible).

[Page 131]

Q. Okay. What do you remember after that?

A. After that then Randy came in and woke me up and he said he was really tired and he was going to sleep there and could I make sure and wake him up earlier because he would (inaudible) clothes and he had to go get his work clothes at Jill's and he had to leave earlier. Because before – he had told me before he'd gone to grandpa's that he was anticipating staying the night there and he wanted me to wake him up at 5:00 and then when he came in he (inaudible) and he said (inaudible) can you wake me up earlier. So I had to get up at (inaudible). I set two alarms. I had (inaudible) and my digital alarm and I set that for 4:30.

Q. What time do you think it was when he came in and woke you up?

A. Looking at the digital alarm 2:16 sticks in my mind. It was after 2:00 because I know after he's gone to bed (inaudible) just slept on the couch, Danny's dog started barking (inaudible) shoot that dog. And I told Randy to get up and put her outside and he said – he yelled at her, "Heidi shut up." (Inaudible). And she did, she shut up and that was about 2:30. I think I had dropped off to sleep in between the time I had set

the alarms and she started barking hard enough to wake me up (inaudible). And after that Danny yelled at Randy [Page 132] because his dog was just very special and he didn't want anybody yelling at her. (Inaudible).

Q. Do you know what he yelled back?

A. Don't yell at my dog, something to that effect. And then I woke Randy up. I yelled and yelled at him. My clock – the radio comes on ten minutes before the alarm so (inaudible). And I yelled at him to get up and he wouldn't answer so I had to get up and go out and he was on the sofa and I had to shake him awake and he was fully dressed and he got up and he went into the bathroom and then he got in his car and left.

Q. Which car did he have then?

A. A blue Volkswagen Jetta.

Q. Did you see him again that day?

A. I do not recollect seeing him again that day. It's possible. I can't say with any authority that he may have came by work. A lot of times when he's finished with his work at, when he worked in Bend, he'd come through, stop at the bakery and maybe he'd bring me flowers or something and he'd – I (inaudible). I didn't see him that night anyway. That was Monday morning that I woke him up. I am not sure if it was that Tuesday night or that Wednesday night, right in there, is when I first became aware that two people were murdered.

[Page 133]

Q. Now going back, you said that Danny and Willy left to go deer or elk scouting at about 1 p.m. and then Randy showed up after that?

A. Yes.

Q. About how long would you say it would have been after that?

A. I would say it was between 8 and 9:00. The sun was still up but it was going down. It was enough to light up the area where (inaudible). It was still up in the sky.

* * * * *

[Page 136]

Q. I think you said earlier that you don't remember whether you saw him after he left in the early morning hours on Monday.

A. I don't recollect. If he came by I do not recall. He might have but it doesn't stick in my mind for some reason.

Q. How about Tuesday the –

A. No, he called me. I believe that's the night he called me because from that time he stayed until he called me I didn't see him. Whether he called me Tuesday or Wednesday, he may recall if it was Tuesday – whatever night that somebody came and –

Q. And talked to him?

A. -- and talked to him that he called me after that and told me that this had happened. And I had not seen him from that time I woke him until – and I didn't see him [137] that day I believe it was a day or so that I saw him after that, after he called me.

* * * * *

[143]

Q. Now does your father-in-law and mother-in-law do they drive? Do they - -

A. Grandpa does. Grandma's not safe to drive. She let her license expired some time ago. She's go diabetes as well as Alzheimer's Disease.

Q. How old are Jenny and Clarence?

A. Grandpa just turned 77 and grandma will be 79 next month.

* * * * *

[Page 1145]

Q. Does Jenny – some people that have Alzheimer's have a hard time remembering things and that kind of thing.

A. Grandma – I envy her not knowing anything. If you ask her what the day is she doesn't know.

Q. I think we'll just avoid having her come in.

* * * * *

[151]

Q. Did Randy ever tell you that Mark had told him that Mark had shot a couple of guys or killed a couple of guys?

A. Jill – Jill – I was going to say that when you asked if I – or mentioned Ross Cathey. Sometime during that vacation I had been at her house and Jill said that Monday morning she didn't – she said that Mark and Ross said that they had blown – a drug deal went down, went [Page 152] bad, or something like that and they had to blow two people away and throw them over the cliff. I'm assuming they meant the gorge. I think they said the gorge.

Q. But that was related to you by Jill, correct?

A. This is what Jill –

Q. Did Randy himself ever tell you any story like that?

A. No. She told me that Ross had told her something about a trick he learned in the Marines I think about sticking a knife in somebody's throat and twisting it. He would demonstrate it how he did this, just, this is the way Jill said and

that's the only thing that I think she said about Ross. But I've never Ross. To see the picture I haven't –

* * * * *

[Page 153]

Q. The green shed out there adjacent to your property?

A. Yes.

Q. The police located some items that were identified as property from the Housers?

A. That's what they told me.

Q. Do you have any idea how it got there? Not that we're saying you did anything.

A. Oh, absolutely none. That shed had been empty and he had – Joel knows my comings and goings. I'd go to work and I'd come home, that's all I did. If he came up there very rarely was I there. I never saw any activities of anything being brought in or anything.

Q. So it could have been when you weren't there?

A. It had to have been because if he's there I know it. I'm alert to that because even though I've had the restraining order I haven't followed to hard – well, I did it – I filed the restraining order in the hopes that Joel would see what he was doing to our family and that he'd realize he was going to miss us, you know. I [Page 154] guess he doesn't love us.

* * * * *

[Page 154]

MRS. GUZEK: If he was there while I was there I knew it and I did not see him around the buildings or anything. And he had locks, they were – he put – I found out, I didn't know

until the police came – triple locks (inaudible). Three big locks on it. What he had in there I have no idea.

* * * * *

Q. How about the night that the murders occurred. Do you have anything written down that night?

A. No.

MR. BROWN: Questions?

Thank you, Mrs. Guzek, I know it's been tough.

(Witness excused.)

* * * * *

CLARENCE GUZEK EXAMINATION

* * * * *

[Page 157]

A. Well, I've been here since about '78.

* * * * *

Q. And you're obviously retired, sir?

A. Oh, yes.

Q. And what type of work did you do?

A. Operating engineer.

Q. Are you feeling okay now?

A. A little dizzy.

* * * * *

Q. That's pretty fast all right.

Okay. I wanted to ask you some questions. You live out there with Kathleen on her –

A. I live in my own motor home.

Q. Right, okay.

A. But on the same land.

[Page 158]

A. -- yeah.

* * * * *

A. Sometimes soon, right.

Q. I want to ask you about – how did you hear about first that the Housers had been murdered? Did you read it in the paper or –

A. No, I heard it on TV.

Q. Okay. Now do you remember the weekend before you heard about he Housers' murders? The weekend that occurred before that?

A. That would be what date?

Q. Well, I think it came out on TV around the 1st of July [Page 159] so we're talking about the 27th or 28th of June.

A. The 28th don't ring no bell at all – or the 27th. The 28th it does because Randy wanted to buy the motor home and it was at that time that, that evening on the 28th that he come up and asked if I was willing to sell the motor home for $7,000.

Q. That's the Itasca we mentioned?

A. Itasca, yeah. So I said well, to you I would let you have it for that money, $7,000, but only to you. Cause he helped me out last spring. He the one that actually saved my life getting me into the hospital and getting me to Portland and stuff like that and I'd helped all the kids up to a point. I owned a fifth wheel that I bought here in town from the trailer sales on the end of town – Boys – Boys.

A JUROR: Country Boys?

MR. GUZEK: What's that?

A JUROR: Country Boys?

MR. GUZEK: Country Boys, yeah.

* * * * *

[Page 160]

Q. So Randy came and wanted to buy the motor home?

A. And he asked if he could – if I would take $3,000 down and I said yes, and that's what I did.

Q. He paid you 3,000 in cash?

A. Yes.

* * * * *

[Page 161]

Q. So how did he pay it to you? Did he pay you cash or –

A. He paid me cash, yeah. He paid me cash. Counted it out there on the davenport.

Q. Small bills or hundred dollar bills?

A. Hundred dollars bills.

Q. Do you recall what time of day it was that he –

A. Oh, yeah, it was between 8:30 and 9. It was still daylight.

Q. Was he with anyone else?

A. No, he was alone.

Q. And did that happen out at your place in the –

A. Right in my motor car.

Q. Okay. What else happened when he came over?

[Page 162]

A. Nothing happened.

Q. I mean did you talk about other things or –

A. Yeah, we talked quite late that night. It was, I know, between 1 and 2 when he went home. Because he went over to – stayed over at his mother's place.

Q. Did you see him walk over there or –

A. No, it was too dark to – when he left.

(Tape 3, side 2).

Q. It seems like an awful late hour for –

A. For them kids?

Q. No, not for them kids for –

A. It was for me because –

Q. -- for you.

A. -- I was, well I was nursing a sore side for one thing. I couldn't lay down and it was easier for me to sit up than to lay down. The bypass was giving me trouble.

Q. What all did you talk about? That's a lot of –

A. Oh, my God, we talked about everything. We talked mostly about the motor home I guess and his ambitions, what he wanted to do and so on. I asked him if he's like to join the Army or the Navy and that didn't set to good.

Q. Now, when he paid you the money did you give him the title to the deal?

A. Oh, no. Oh, no.

* * * * *

[Page 163]

Q. I see. Did you know that Randy had to go to work the next morning?

A. I didn't know but he knew it because he told me along about midnight. He said, dad I've got to get home and he says I've got to work tomorrow night or – to, I've got to go to work today he says. So I says, if you're gonna go home you'd better go home because I'm not going to go to bed. I'm going to sit here on the davenport because if I lay down I'm in pain. If I sit up I'm okay. Well, one thing led to another but he didn't leave then until about – it was after 1:00. Around 1:30 or a quarter to 2; something like that.

Q. So what did you do after he left?

A. I sat there on the davenport.

Q. Until what hour would you say?

A. The next morning. Well, I'm an early riser but that [Page 164] morning I slept until about 8:00 when I woke up.

Q. What time do you think you went to sleep?

A. Well, I woke up twice during the night after he left. Once I had to go to the toilet and I looked out the window and it was about 4:00 then and his car was still there because it was parked right between my camper and the Itasca and the big flood light shined right down on it. And you could hear that – you could hear that diesel start. It sounded like a bunch of bolts in an empty pain.

Q. So what time do you think you fell asleep and then woke up again?

A. Well, I was probably asleep by 2:30.

Q. And then you woke up around 4 you say?

A. I had to – yes, I had to go urinate and when I did why his car – I looked out the window and his car was in the same place that he had left it that night.

Q. And then what happened after that?

A. I went back and sat down on the davenport.

Q. And did you go back to sleep again?

A. Yeah.

Q. What's the next thing you remember after that?

A. Hearing that car start up.

Q. And what time do you think that was?

A. It was about 5:30. I didn't look at the clock but I just surmise it was around 5:30.

* * * * *

[Page 168]

Q. Did you and Randy have anything – I think you already [Page 169] said something about this. It was just a verbal agreement regarding the motor home?

A. That's right. Her asked if I wanted a contact and I said, no, Randy, if your work is no good now it wouldn't be any better on a contract. I never had a contract on the fifth wheel with Jill. I never ask contracts with the family.

Q. I just wondered if there was anything in writing at all.

A. Well, the only thing I done that I marked on the envelope that I put the money in because I know my memory. And I put the date, the amount that Randy gave me and I think I put on it motor home was not to leave the premises until paid for. And that was the agreement we had with Randy. He agreed not to take it out on the road or use it until it was paid for.

* * * * *

Q. I see. What happened to the envelope that the money was in?

A. The investigator for –

Q. Mr. Chastine (phonetic)?

A. I think that's his name. Took the envelope and the money was still in it when he slit the envelope open and gave me the money and said, I will send you a copy, a photocopy of the letter, but he never did.

Q. Huh. That's Randy attorney's investigator that has it?

A. Yes.

Q. As far as you know?

A. As far as I know.

Q. Okay.

* * * * *

[Page 173]

Q. So it sounds like Randy was with you for five or six hours on Sunday? Four or five hours?

A. Four or five hours I'd say.

Q. Okay. And was anybody – you don't remember whether you say Danny that night or –

[Page 174]

A. Danny?

Q. Yeah, Danny, the night Randy was there. Or do you remember?

A. No, but Danny did come in. There was two pickups come in about 11:00 and one of them went back out and I

asked Randy then, I said, Randy, how come Danny's going back out on the highway? And he got up and looked out the window and he says, well that's not Danny's truck, he says it's Willy's truck, Danny's friend. And they were – he says Willy's going home. So then about 20 minutes later the truck pulled in again. What they'd done Willy and Danny had went down and got hamburgers and I guess they brought them back home but, you know, I didn't see him personally.

Q. Now what time was that again, sir, that you thought that was?

A. About 11:00.

Q. Okay.

A. It was the same night that Randy was sitting in the trailer or the camper with me, talking.

* * * * *

[Page 175]

Q. Do you wear a watch, Mr. Guzek? I thought I saw one there. A big one.

A. I can see it.

MR. BROWN: I think that's all the questions we have for you.

MR. GUZEK: All right.

MR. BROWN: Thank you for coming in, sir.

MR. GUZEK: Well, thank you. Thank you.

(Witness excused.)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF DESCHUTES

STATE OF OREGON, Case No. 87CR0373TM

Plaintiff,

v.

RANDY LEE GUZEK,

Defendant.

Guilt Phase

March 22, 1988

[Page 111]

Bailiff, raise your right hand and be sworn, please?

C LARENCE GUZEK

Called as a witness, having been first duly sworn, was examined and testified as follows:

THE COURT: Be seated right up here, please.

State your full name, spell your last name?

A. Clarence Guzek.

THE COURT: Go ahead.

DIRECT EXAMINATION

BY MR. KITTREDGE:

Q. Mr. Guzek, can you hear me all right?

A. Yeah. Okay.

Q. Okay.

THE COURT: Can you get a little closer to that microphone, Mr. Guzek? That will help you, point it right at you, thank you.

MR. KITTREDGE: You are still hearing me okay?

A. Yeah.

Q. Where do you live, Mr. Guzek?

A. I'm living at the Mountain View Trailer Court on South Highway 97, Redmond.

Q. Uh-huh. How long have you lived there?

A. About five months.

Q. Where did you live previous to that?

A. At 624 NE Walnut.

[Page 112]

Q. Okay. And how long did you live there?

A. We lived there about ten years.

Q. Okay. So were you living there in June of 1987?

A. Yes.

Q. Okay. Do you happen to know Randy Guzek?

A. He's my grandson.

Q. Okay. You know him pretty well then?

A. Right.

Q. Okay. Did you have occasion to see Randy Guzek in late June last year, 1987?

A. Late June?

Q. Yes, sir.

A. Yes.

Q. Okay.

A. Do you recall when that was?

A. What date?

Q. Well, do you recall what date?

A. Yes, it was the 28th.

Q. 28th? Okay. And about what time?

A. Well, he come in about, it was just, I'd say around nine o'clock that evening.

Q. Uh-huh. Had you seen Randy Guzek recently? I mean last, this day we are talking about, had you, do you, were you seeing him every day?

[Page 113]

A. I hadn't seen him for, on, two weeks or a month. Almost a month prior to that.

Q. Okay.

A. Now the address on Walnut Street you gave me, does anybody else live at that address?

A. My daughter-in-law.

Q. Okay. Now, does she, where does she live on that property?

A. Well, she lives in the main, in the main residence.

Q. Okay. Is this a mobile home?

A. Yeah. Yes.

Q. Where were you living on the property at that time?

A. Well, I have a diesel motor home.

Q. Uh-huh. And you were living in that?

A. Right.

Q. Okay. Now, Randy comes to visit you on the 28th of June; is that correct?

A. That is right.

Q. Does he give you any reason why he comes to visit you after two weeks to a month?

A. Well, last time, prior to that, that he was over, he asked if I would consider selling him the motor home. I have an Itasca motor home and it's sitting there [Page 114] idle, so I told him that he could, we could negotiate a deal on it.

So, he asked me how much I'd take for it. Well, I said, "Well, to you I'd take seven thousand dollars. How do you want to pay for it?" Well, he says, "I'd like to have it."

Q. Okay. Where, where was the Itasca motor home at?

A. It was parked about, about 30, 35 feet from my diesel.

Q. Okay. Where was it parked in relation to the main mobile home that's on the property?

A. To the main?

Q. Yeah.

A. Between, between my diesel bus and the main residence.

Q. Okay. Is it still there?

A. Still in the same position, same place.

Q. Now, did Randy bring up this motor home when he came to visit on, on the 28th?

A. Did he what?

Q. Did he bring up the motor home when he came to visit you on the 28th?

A. If, he asked if I wanted to continue, would make the deal then.

[Page 115]

Q. Okay. What did you tell him?

A. Told him yes, if he wanted to. Why, he says, "could I put three thousand dollars down on it."

Q. Did you agree to that?

A. I did.

Q. Okay. Then what happened?

A. Well, then he said "wait a minute, I will go over to the house and get the money." And about five or six, seven minutes, he was back and counted out the money.

Q. Okay. So he gave you three thousand dollars?

A. Yes.

Q. Was that in cash?

A. That was in cash.

Q. Okay. What did you do with the money?

A. Well, I counted it and I put it back in the envelope, laid it over on the table.

Q. Okay. It was in an envelope?

A. What's that?

Q. Was it already in an envelope or did you put it in an envelope?

A. No, he had it in an envelope.

[Page 116]

Q. And you laid the envelope aside; is that correct?

A. I?

Q. You laid the envelope aside at that time?

A. Yes.

Q. Okay. Then what happened?

A. Well, we just sat there and talked until almost midnight.

Q. What did you talk about?

A. Oh, traveling, education, his schooling and so on. Trips that I'd made with the motor home.

Q. Uh-huh.

A. And then what happens?

A. Well, then, the way I was sitting, there was a, there was a flash of headlights come across the bus, and I asked Randy. I said, you know, "who's going out, looked like somebody's gone out of here."

Well, he says, "I think it's Danny and Willie going out to get a pizza," get something to eat or something to that effect. There's no more said about it. That was about, I'd say around 11 o'clock.

Q. Didn't you say it was midnight before?

A. No.

Q. Oh?

A. Not midnight, no. It was --

Q. It's 11 o'clock?

A. About 11 o'clock.

Q. Okay. Now what happens after you see the [Page 117] headlights and that goes on?

A. Well, we just continued talking, and until again the headlights shown up and the car come back in. Well, I figured that was just, told Danny or Randy, I think that's Willie and Danny coming back from, must have had their pizza.

Q. Uh-huh.

A. Outside of that, well, there's nothing happened until he asked what time it was. And I looked up on the wall on the far end of the bus, and I got an electric clock. And he said, "it's, my god, it's almost 2 o'clock. I have got to get home and get some sleep."

Q. Uh-huh.

A. So --

Q. So what did he do at that point?

A. He jumped up and went home.

Q. Okay. Did you see him any time after that, during that night?

A. That night?

Q. After he left, yes.

A. No.

Q. After he left, what did you do?

A. Well I, I sat there for awhile, and got, thought about making up this -- I did ask him if he wanted a receipt earlier in the evening and he says, "well, I'd [Page 118] like to have one."

I said, "fine, will tomorrow be all right?" He said sure. So I took, took the envelope, and it was pretty well battered up, so I put it in another envelope like it. And I put it back there on the table again, and got to thinking well, I might as well do it now, I can't sleep anyhow.

So I wrote out the receipt the way it says on the envelope, the date.

Q. Is there some reason you don't sleep well?

A. Well, yes. I'd five bypasses in January, and I have a, what do you call them, angina.

Q. Okay. That was January of '87 that you had the by-passes.

A. Yes. Yes.

Q. So that would have been several months prior to this incident; is that correct?

A. Had them in January 20th.

MR. KITTREDGE: Approach the witness, Your Honor?

THE COURT: Yes, you may.

MR. KITTREDGE: Q. Mr. Guzek, I'm going to show you what's been marked Defendant's Exhibit 303 and ask you if you can recognize what that is?

A. That is my writing and that is the envelope I [Page 119] put it in.

Q. Okay.

A. Now, I want to call your attention to some initials and a date up in the right hand corner and ask you if that's your writing and your initials or your writing?

A. Here?

Q. Yes, sir. Do you remember it? If you don't remember it, it's all right.

A. I don't remember writing that in there.

Q. Okay. Oh, I'd like you to look at it one more time. Call your attention that the top is slit. Is that the way the envelope was?

A. No.

Q. When you wrote it?

A. No.

Q. Do you know how it happened to get opened?

A. LeRoy Chastain.

Q. He did it?

A. Yes. The envelope was not opened when I handed it to LeRoy.

Q. You handed the envelope to LeRoy?

A. Yes.

Q. It wasn't open?

A. No.

[Page 120]

Q. Money was in it?

A. Money was in it.

Q. Okay. And he slit the envelope open?

A. Yes.

Q. What happened to the money?

A. I don't remember whether he counted it or not. I think he did. He put it back in the envelope, handed it back to me.

Q. Uh-huh.

A. Up here, I can't recognize this.

Q. Okay. That's where it says, looks like LEC or something, 8/6/7/'87. That's the part you don't recognize?

A. Yes, words.

Q. Right here?

A. Up above the --

Q. Yeah, that's what I'm saying.

A. Yeah.

Q. The dark printing?

A. Right.

Q. When's the last time you saw this envelope, Mr. Guzek?

A. When I gave it to my daughter-in-law.

Q. You gave it to your daughter-in-law?

A. Yes.

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Q. I thought that you gave it to Mr. Chastain?

A. He gave it back to me.

Q. And you gave it to your daughter-in-law?

A. Yes.

MR. KITTREDGE: Okay. No more questions.

CROSS EXAMINATION

BY MR. BROWN:

Q. Mr. Guzek, I have some questions for you, sir. It's your recollection that you gave that envelope to your daughter-in-law, Katherine Guzek?

A. Yes.

Q. You remember when that would have been approximately, sir?

A. Not, not date-wise.

Q. Did she ever give you the envelope back after you gave it to her?

A. I don't remember if she did or not. I don't think she did.

Q. Sir, you are now living in a trailer park by the Brand Restaurant; is that correct?

A. Yes.

Q. When did you move to that location?

A. I think I have paid five months rent on it already. Be about five months ago.

Q. About five months ago? What did you say your [Page 122] street address was there on Walnut?

A. 6 -- 2678. I said my Post Office box number.

Q. Oh. Oh. I don't mean to embarrass you, sir, but would you tell us how old you are?

A. I'm, I will be 78 in October.

Q. Do you have to take any type of medication?

A. Yes.

Q. What type of medication do you have to take, sir?

A. For my heart. It's a blood thinner and Inderol, and aspirin.

Q. I heard the blood thinner. What was the other two you said you took?

A. Inderol for the, for the heart blowup from when I had the heart attack. In fact I had two heart attacks, one in Provo, Utah, and one in last January, but, Provo, Utah, and one in last, what we thought was a blow out in the heart structure itself. And, this Inderol is to deal with the heart.

Q. And that occurred when you had the heart attack last January?

A. I don't know, I don't think so. I had the pain in there nine years ago when, or thereabouts when I was in Provo, Utah, were up there visiting my wife's sister.

And, I had to go to the hospital and, hit me in [Page 123 the morning, first it hit me in Wednesday in a rest area in Nevada. I survived that one, and we, next morning it was like nothing happened. I continued on into Salt Lake and then on over to Provo. We stayed there then until Saturday morning at my brother-in-law's motel.

And, that morning it hit me again. That time I went to the hospital for eleven days. And the doctor there, Dr. Bridges, he said you probably have a heart damage, but he says, at this time, he says, we are, we are going to release you if you stay, try to stay within the program that I set for you, which I did until January the 20th of last year.

Q. Have you been on that medication you talked about since your heart attack last year?

A. Yes.

Q. Are you retired, sir?

A. Yes.

Q. How long have you been retired?

A. About about ten years.

Q. You have to take care of your wife, do you not, sir?

A. Yes.

Q. She has an illness?

A. She has Alzheimer's or whatever you call it.

Q. Alzheimer's?

[Page 124]

A. Alzheimer's, and she's also diabetic.

Q. That pretty much a full time job, I imagine?

A. You could say that again.

Q. Do you remember when Mr. Kittredge, the defense attorney over here, was asking you questions just a minute ago? Do you remember something about saying that you talked to your grandson on June 28th up until midnight?

A. It was after midnight.

Q. You remember saying anything about midnight just a few minutes ago?

A. I thought that is when about that time when that the kids come in after having pizza.

Q. Well, was it midnight or was it 11, do you remember?

A. They left around 11. I'm not sure of, I can't recall the exact time because I, it didn't mean nothing to me.

Q. Right. Do you remember a police officer by the name of Lynn Fredrickson?

A. Yes.

Q. Have you spoken with him on a number of occasions?

A. Have I what?

Q. Have you spoken with Mr. Fredrickson on several occasions?

[Page 125]

A. He was up to the place on, yes.

Q. Do you remember talking to him about the first week of January of this year? January the 8th to be exact?

A. January the 8th?

Q. That's correct. He was with another officer named Little?

A. I can't recall the date.

Q. Okay. Let me just ask you if you told him that you have a difficult time remember dates and times?

A. I did have, up until my operation.

Q. Did you tell him that you still have a difficult time remembering dates and times?

A. At times, yes.

Q Do you remember telling Officer Frederickson on that date that you couldn't remember when you wrote the date on the envelope that Mr. Kittredge just showed you?

A. I don't think so.

Q. Do you remember speaking with Officer Fredrickson about a little over two weeks after the first time I just mentioned on January 8th, talking to him again on January 26th, 1988?

A. Again the date don't mean nothing.

Q. Okay. He was with another officer that day, another State Police officer named Crawford. Does that do [Page 126] anything for you?

A. Yeah.

Q. Do you remember asking Officer Fredrickson on January 26th, if you and he had ever discussed the matter of that envelope prior to that date?

A. If he and I?

Q. Yes. Do you remember asking Officer Fredrickson "did you and I talk about the envelope sometime before"? Do you remember asking the officer that question?

A. (witness shakes head) No way.

Q. Do you remember telling him again that day on January 26th that you really were not sure when you wrote the date on that envelope?

A. No way.

Q. Do you remember telling him on that day that you couldn't remember whether it was the Defendant, your grandson, who had told you what date to write on the envelope?

A. Say again?

Q. Sure. You remember telling Officer Fredrickson that same day, January 26th, that you could not remember whether your grandson had told you what day to write, date to write on the envelope?

A. That's not true.

[Page 127]

Q. Do you remember telling Mr. Chastain that you've had a bad memory?

A. There's at times I do have a bad memory.

Q. Okay. So you probably told him that?

A. It's possible, but in the, in the gist of the conversation, if I had to recall a certain event at a certain time, I'm same as anybody else, can't do it.

Q. If, do you remember telling Mr. Chastain that Monday morning, after your grandson came over to talk to you about the motor home, that you saw your daughter-in-law, Katherine, going to work?

A. On what, on what morning?

Q. The Monday morning, part of the same day that you claim that you saw your grandson, would be Monday, June 29th, 1987?

You remember telling Mr. Chastain that you remember seeing your daughter-in-law, Katherine, leave for work early that morning about 6, 6:30 a.m.?

A. I don't remember anything, recall talking about Kathleen at all.

Q. Now, Mr. Guzek, after your grandson left your motor car early that morning, about 2 a.m., I believe you said, did you go to bed?

A. No.

Q. What did you do?

[Page 128]

A. I sat up on the corner, the end of the davenport for maybe half an hour, because that's the only way I could get to sleep. If I laid down, I'd plug up and I, my heart hurt so bad I'd have to get up anyhow.

And, I finally got up, and I, aw, might as well make out the receipt now, so I turned on the table light so, I got the envelope and I marked the time and the date, not the time but the date, and what is on the envelope.

Q. So did you eventually go to bed sometime that morning?

A. No. No.

Q. Do you recall the date that the police came out to the residence out there on Walnut Street and searched it?

A. (witness shakes head) I have no idea of the dates at all.

Q. Did you ever hear about the fact of Mr. and Mrs. Houser being murdered?

A. I, the, name-wise I didn't, I don't think I heard the name, but just that two people had been murdered.

Q. Do you recall when you heard it, when you found out about it?

A. I think it came on the t.v.

Q. Do you remember when the date was when you [Page 129] heard about it?

You indicated that you and your grandson had been talking over some period of time about him making some kind of offer to you to buy the motor home? Is that correct, it occurred over a period of time?

A. Once or twice possibly he might have said that he'd like to have it, would I consider, you know, letting him buy it.

Q. Do you recall when he first started talking to you about buying the motor home?

A. In relation to?

Q. In relation to when you testified he paid you the three thousand dollars.

A. No, I don't, I don't remember.

Q. Did you ever see the Defendant leave the Walnut Street address later that morning after he had left your presence and go somewhere else to go to sleep?

A. You mean Randy?

Q. Yes.

A. Did I see him after that?

Q. Correct.

A. Not that night.

Q. When did you next see him after that particular night, do you recall?

A. It was a couple of days later, Tuesday or a [Page 130] Wednesday, I'm not sure, and he came over and went into the motor home.

I unlocked it for him. He brought, he'd brought something out from the house, I don't know what it was. And I, when he come back in the bus, why, I asked if he wanted to go up to the, Bob's and have a hamburger, which he did.

And Grandma and myself and Randy went on up to the Bob's and had a hamburger.

Q. Mr. Guzek, do you recall testifying before the Deschutes County grand jury back last October?

A. Yeah.

Q. I believe the date was October 23rd, 1987.

A. Could have been, I don't know.

Q. Do you recall at that time -- Counsel, if you have a transcript, it's page 166, line 17. Do you recall at that time telling the grand jury that you did not see your grandson, Randy, anymore after that date at the motor home with the three thousand dollars up until the time he got arrested?

A. No, I don't recall saying that. But, it's very possible that I did. Because at that time, I probably didn't recall, because, there was a few days there I I did have bad recall.

Q. When was the last time you saw your grandson [Page 131] before this particular occasion with the three thousand dollars and the motor home?

A. The next?

Q. The last time before that, that you saw him?

A. Before that?

Q. Yes, sir.

A. It's quite awhile. Couple weeks or maybe a month.

Q. Now, sir, being retired and having a full time job of caring for your wife, one day basically is kind of like the next, isn't it?

A. Like what?

Q. One day is kind of like every other one?

A. They have a tendency to, yes, to blur into each other.

Q. Unlike as if you had, when you were working, when you were employed and you had work, oh, so many days, then you had the weekends off or whatever.

Sir, again going back to what you said to the grand jury, page 177 on line 11, do you recall telling the Deschutes County grand jury that you thought you had put the date, the amount that Randy Guzek had given you, and the fact that you had put on it that the motor home was not to leave the premises until it was paid for?

[Page 132]

A. That is right.

Q. Do you recall what you did on Sunday, June 28th, before your grandson showed up?

A. Yes. I was in the bus all day.

Q. Do you recall telling the grand jury that you either went to Smith Rock that day, or to the lake, Haystack Reservoir?

A. I don't remember saying that.

Q. Do you recall what you did the day before that on June 27th?

A. It's very possible that we did go to Smith Rock on that day. That would have been, that would have been on Saturday?

Q. Yes, sir.

A. I know we made, we made a run out to Smith Rock on one, but not on Sunday, because Sunday I had a bad day.

Q. You had a what?

A. I had a bad day, my heart was hurting.

Q. Do you remember telling the grand jury that you don't remember what you did on Saturday, June 27th?

A. I may have. I don't know.

Q. Okay.

MR. BROWN: Thank you, sir, no further questions.

REDIRECT EXAMINATION

[Page 133]

BY MR. KITTREDGE:

Q. Mr. Guzek? Can you hear me, sir, can you hear me now?

A. Go ahead.

Q. Okay. Do you normally date your business receipts?

A. To which?

Q. Do you normally date your business receipts? Well, let me ask, go ahead.

A. In, I don't have any business.

Q. Well, okay. Did you date the receipt that you gave, that you wrote out to give to Randy?

A. I, if I, yes, I think so.

Q. Okay.

A. Wouldn't be a receipt if it didn't have a date on it.

MR. KITTREDGE: Uh-huh. Approach the witness, Your Honor?

Q. Is there a date on that receipt, Mr. Guzek?

A. 6/28.

Q. Okay.

A. From Randy Guzek.

Q. Now, Mr. Guzek, the events you've testified about, Randy coming over and giving you three thousand dollars down payment on the motor home, happened on [Page 134] the day that you dated this envelope; isn't that right?

A. That's right.

Q. Now the Prosecutor asked you about some of your testimony in October, about what you did during these times. Would you say your memory was better in October about what you did in, in June than it was now some several months later?

A. I just can't unravel that.

Q. Okay. Well, why don't we just forget that. Now you stated that you gave this envelope to your daughter-in-law; correct?

A. Right.

Q. And isn't that correct that then she gave it back to you and you gave it to Mr. Chastain?

MR. BROWN: Objection, all these leading questions, Your Honor. He's already been asked and answered it on Cross.

THE COURT: Rephrase the question, it was leading.

MR. KITTREDGE: Q. You stated that you gave this envelope to your daughter-in-law; correct?

A. Yes.

Q. And didn't she give it back to you?

MR. BROWN: Same objection Your Honor, leading.

THE COURT: It's leading, rephrase it.

[Page 135]

MR. KITTREDGE: Q. Did she give it back to you?

A. Yes.

Q. Did you give it to Leroy Chastain?

A. I, yes.

MR. KITTREDGE: Okay, no more questions.

RECROSS EXAMINATION

BY MR. BROWN:

Q. Mr. Guzek, didn't you just tell me she never gave it back to you?

A. I don't know if I did or not, I don't think so

MR. BROWN: Okay, no further questions.

MR. KITTREDGE: No more.

THE COURT: Thank you, Mr. Guzek, you can step down.

MR. KITTREDGE: Defense calls Leroy Chastain.

LEROY CHASTAIN

Called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KITTREDGE:

Q. Would you state your name, spell your last name for the record, please?

A. Leroy Chastain, C-h-a-s-t-a-i-n.

MR. KITTREDGE: Approach the witness, Your Honor?

[Page 136]

THE COURT: Yes.

MR. KITTREDGE: Q. Mr. Chastain, I'm handing you now what's Defendant's Exhibit 303. Before I ask you about that, I have got a couple of questions, other questions.

Where do you live, Mr. Chastain?

A. In Bend.

Q. How are you employed?

A. I'm a private investigator.

Q. Were you employed as a private investigator in this matter?

A. Yes, I was, sir.

Q. As a result of your employment, did you talk to Clarence Guzek?

A. I did.

Q. At any time during that conversation were you given Defendant's Exhibit 303?

A. I was.

Q. And, what did you do with it?

A. After securing it, I placed my initials, I dated it, the date on it is 8/6/87.

Q. Where did you date it?

A. It's in the upper right hand corner.

Q. Is there some difference between the ink you used and the ink the other thing that is written on the [Page 137] envelope?

A. Ink that is written on it prior to my initial is a grayish blue. Mine is written in black.

Q. Who did you get the envelope from?

A. I obtained this from Clarence Guzek.

Q. What have you done with it since that time?

A. Since until today?

Q. Have you had it with -- let me withdraw. Have you had it in your possession until today?

A. The envelope has been in my possession up until today when I gave it to you.

MR. KITTREDGE: Okay. We'd offer Defendant's Exhibit 303.

MR. BROWN: It's hearsay, Your Honor, object.

THE COURT: I beg your pardon?

MR. BROWN: I'm objecting to it on the basis of hearsay.

THE COURT: Do you have an exception to the hearsay rule you think applies is not a court statement?

MR. KITTREDGE: Your Honor, I guess we would say really it's not hearsay in it's not being offered for the truth of the matter asserted. It's being offered because Mr. Guzek states that he made this envelope on that night, and that's what he did.

And he also testifies that he wrote it, and [Page 138] this is to prove that he did write it.

THE COURT: I'm going to overrule the basis, on the basis it's past recollection recorded.

MR. BROWN: Your Honor, I believe that particular exception indicates that if The Court allows in the exhibit, it's supposed to be read to the jury rather than accepted as a exhibit.

I would simply ask that it be read rather than fully received.

THE COURT: Oh. Do you have anything, other exceptions? You are saying this is not hearsay, aren't you?

MR. KITTREDGE: Well, I guess we would.

THE COURT: I --

MR. KITTREDGE: In other words, you know --

THE COURT: Just a minute. You have any other exception to the hearsay rule that applies?

MR. KITTREDGE: No, Your Honor.

THE COURT: What was your theory that it's not hearsay?

MR. KITTREDGE: Well, he stated that --

THE COURT: Just tell me why you think it's not hearsay. Briefly, very briefly.

If you want to argue it --

MR. KITTREDGE: It's not being offered for the [Page 139] truth of the matter asserted. It's being offered to prove that he wrote it, when he said he wrote it.

THE COURT: Well, all right. I'm -- Mr. Brown's correct. The rule requires under past recollection recorded that the document can be read into the evidence, but not received as a exhibit.

Unless it, it's been offered by an adverse party, seems to me it's obviously being offered for the truth of the matter asserted that he received the money on that date.

So, I will allow the document to be, contents to be read to the jury.

MR. KITTREDGE: Okay.

THE COURT: But I will sustain the objection as reception in evidence to be given to the jury.

MR. KITTREDGE: The document reads as follows: "Down payment on motor home on 6 dash 28, from Randy Guzek, three thousand dollars, balance four thousand dollars, motor, oh, excuse me – balance four thousand dollars. Motor home is not to be taken off the premises until pay in full."

And then it's written Clarence Guzek, which looks like a signature.

THE COURT: Go ahead.

MR. KITTREDGE: Oh. That's all, that's it.

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THE COURT: Yeah, I understand that.

MR. KITTREDGE: We'd have no questions for Mr. Chastain.

CROSS EXAMINATION

BY MR. BROWN:

Q. Mr. Chastain, did Clarence Guzek ever tell you that he had given the envelope back to Kathleen Guzek?

MR. KITTREDGE: Objection, that's beyond the scope. That the --

THE COURT: Sustain.

MR. BROWN: No questions.

THE COURT: You may step down. Would you folks use the jury room for just a few minutes? I, well, let's take about a 15 minute recess at this point.

(jury is excused)

THE COURT: I, just a moment, we are not in recess. Let's talk about this ruling on that a little more. I'm not sure I got at exactly what you were trying to put forth, that this was not hearsay because it was being offered for the truth of the matter.

I didn't want to explain it very much in front of the jury. It, let me see if, if this is what you were saying to me.

MR. KITTREDGE: Well, I guess --

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THE COURT: The fact that you are seeking to prove to us that Randy Guzek was there?

MR. KITTREDGE: Yes.

THE COURT: At the time that evening?

MR. KITTREDGE: Right.

THE COURT: The witness testifies he remembers him there, being there, because they went through --

MR. KITTREDGE: The thing with the motor home.

THE COURT: This thing with the motor home, and that after Randy left, he made a notation with the day and what they talked about.

MR. KITTREDGE: Right.

THE COURT: But you are not seeking to prove the truth of the negotiation about the motor home?

MR. KITTREDGE: Right.

THE COURT: You are seeking to prove that Randy Guzek was there.

MR. KITTREDGE: Yeah. And I am not seeking --

THE COURT: No, this is not being offered for the truth of the negotiation about --

MR. KITTREDGE: Right.

THE COURT: But just to show --

MR. KITTREDGE: Substantiate --

THE COURT: What he says he did, he did.

MR. KITTREDGE: Right.

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THE COURT: You want to comment on that? I think maybe it's not being offered for the truth of the content of the writing.

MR. BROWN: Seems as, to me they are offering it to pro[illegible] that what Clarence Guzek said was true. And, that of course ties --

THE COURT: Yes, because he said he made notation about the negotiations, there's the notation.

MR. BROWN: And they are offering that to prove the truth, that Randy Guzek was there June 28th.

THE COURT: Yeah, they were seeking to prove he was there on June 28th. That is right. They are not seeking to prove that they agreed on the motor home.

MR. BROWN: But they are seeking to prove the theory he was there on June 28th by virtue of that date being on there.

THE COURT: Yeah, maybe you are right. You want to say anything further about that?

MR. KITTREDGE: Yeah, I guess that again would be our argument, that this witness testified that "on the 28th I wrote this document."

THE COURT: Well, wasn't he really saying that "I knew it was the 28th" because that's the date he wrote it?

MR. KITTREDGE: I don't think he quite said [Page 143] that. In other words, I asked him the first time --

THE COURT: Well, he said that specifically in answer to one of your questions.

MR. KITTREDGE: Well, I suppose that's, I did ask him that way also, I agree, but I also asked him, when I first started to question him, when it was and he said the 28th when he said him.

Well, I agree. I mean, I may be replowing that ground in my questions, but his original statement was that he saw Randy on the 28th.

THE COURT: Well, he testified to that before he even looked at the envelope.

MR. KITTREDGE: Yeah. And then in fact, the Prosecutor brought up the fact --

THE COURT: See, the ruling hinges on what you are trying to prove with it.

You are trying to prove that Mr. Guzek was there on the 28th. He testifies he was there on the 28th, that he made a note, that he put the date he was there, the note says the 28th. The note is then being offered to prove that he was there on the 28th, I think, as additional proof that he was there on the 28th. If –

MR. KITTREDGE: I suppose –

THE COURT: I'm going to leave my ruling stand. I don't think we can analyze out of that. Okay, we'll be in [Page 144] recess for about another ten, fifteen minutes. Call Kathleen Guzek.

KATHERINE GUZEK

Called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KITTREDGE:

Q. Would you state your name and spell your last name for the record please?

A. Katherine Guzek. G-u-z-e-k.

Q. Where do you live, Mrs. Guzek?

A. 2678 NE Walnut in Redmond, Oregon.

Q. Where are you employed?

A. Safeway.

Q. Do you know Randy Guzek?

A. Yes, he's my son.

Q. Did you see Randy Guzek on or about June 28th, 1987?

A. Pardon me?

Q. Did you see Randy Guzek on June 28th, 1987?

A. June 28th, is that Sunday? If that was Sunday, yes, I did.

Q. Okay. Did you see him on a Sunday, the Sunday before the 4th of July?

A. Yes.

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Q. How is it that you would know that it was a Sunday?

A. That was my day off. I was off Sunday and Monday. And he came up that day, we burned weeds. He came up and I was laying on the couch, and he came and sat on the coffee table, wanted me to go over to Grandpa's with him.

Q. Okay. That's the first time you have seen him on this Sunday?

A. Yes, sir.

Q. About what time was it?

A. I would say it was evening, almost, it was not dark, the sun was still up, the sun was low.

Q. It was in the late evening?

A. Yes.

Q. Okay. You stated that you were burning weeds that day?

A. Yes, sir.

Q. How long did you spend burning weeds?

A. All morning until about noon.

Q. Okay. Then what did you do?

A. I laid down. I was very, I got overheated. And I didn't even wash my feet, I was black from burning weeds and I just laid down and rested and went to sleep.

Q. Were you asleep when Randy arrived?

[Page 146]

A. Yes, sir.

Q. What did Randy Guzek say to you?

A. Well, hi, and the usual, how have you been and so on. I told him I was really exhausted. I thought I had heat stroke because I was burning weeds and I got real hot and I was really tired.

He wanted me to go over to Grandpa's with him, something about buying a motor home. I said I'm just too tired, I just can't.

Then I asked if he would check the hot spots on the fire, I was really worried about that, and he did. And I sat up, that's how come I knew the sun was still up.

Q. Let me interrupt you. What do you mean by hot spots?

A. When you are burning under juniper trees, sometimes a piece of wood will just be simmering there and it will work down into the droppings from the juniper tree, and they can smolder and then light up later.

So I had asked him to go and hose those down, because I had the water running out there still. And I sat up and showed him where the area was, and the sun, you could still see the sun was lit, so that's how I'm assuming time-wise.

Q. Did you leave the couch at this time?

A. No, I sat up is all.

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Q. Have you had problems with hot spots before?

A. Oh, yes.

Q. Did Mr. Guzek, your son, do anything with the hot spots?

A. Yes. He went out there. I sat up because I'm really concerned about fire. I have been through many of them. And I looked out and saw him out there watering the area down that I had directed him to do that. And then I laid back down.

Q. Uh-huh.

Q. When's the next time you saw Randy?

A. He came back in, I couldn't tell you how long it was. He sat back down, then asked if I was feeling better, could I go over to Grandpa's.

I said I'm just too tired, Randy, maybe I will later. And he went on over. He left the house. At that point I didn't, went back to sleep.

Q. Okay. He had asked you twice to go over to his grandfather with him?

A. Yes, he did.

Q. Did he ever indicate why he wanted to go, you to go?

A. He wanted to have me to help him make a deal on the motor home. He'd like me to observe, point out any extra things that were necessary.

[Page 148]

Q. Okay. When he said he was going over to Grandpa's, do you know where he was talking about?

A. Yes, that's Grandpa's bus directly back of the property. It's on our property.

Q. Okay. How far--which house do you live in at that address?

A. The biggest house there with the mobile home and addition built onto it.

Q. Okay.

Q. Do you know the name of the man that he refers to as Grandpa?

A. Yes, Clarence Guzek.

Q. So he came back in a second time after, is this after he's done the hot spots?

A. Yes, sir.

Q. And he requested you to go over to his Grandpa's again?

A. Yes, he did.

Q. Then what occurs?

A. I was too tired, I just said I'm just exhausted and I wanted to sleep, and then he left.

Q. What happened next?

A. The next thing I know is my son, Danny, his older brother had come in, and Willie, his friend, and they wanted me to fix them something to eat.

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And I moaned and groaned about it. I was still exhausted. And, I begged off. He said, "Willie, let's get pizza," so he

went to the phone and he called the pizza place, said "we have to get it to go because they are going to close." So I'm assuming that's about 11 o'clock, because that's the time that this pizza parlor closed. Then they drove off.

Next thing I know was they came back with the pizza, set it on the coffe table beside the couch.

Q. Sorry -- if I can interrupt you a minute -- are you familiar with when the pizza place closes?

A. On Sundays they close at 11, yes.

Q. How many children do you have, Mrs. Guzek?

A. Four.

Q. How many boys?

A. Three.

Q. What are their ages?

A. Right now?

Q. Trick question.

A. I can tell you their birthdays. Randy's 18, Danny will be 21 this Monday and Joe is 23.

Q. Having those three boys give you any experience when pizza places close?

A. Absolutely. They could, they could tell you how much how much additional cost, how much for extra [Page 150] pepperoni, you name it.

Q. Uh-huh. Okay. Does, you other son Danny and his friend returned?

A. Yes, they did and they put the pizza on the coffee table, and it was, they were making motions for me to vacate

the premises, they wanted to watch a program on t.v., and that was my cue to get up and go to bed.

Q. Okay. Now where have you been sleeping all this time?

A. On the sofa in the living room.

Q. So that's in front of the t.v., is it?

A. Yeah. The only sitting area in front of the t.v.

Q. What did you do at that point?

A. I got up and I got my feet washed and I went to bed.

Q. Okay. What's the next thing you know of that evening?

A. Willie's truck leaving. He's got a very loud muffler on his truck. I heard that start up. I don't know what time that was, but I was in bed.

Q. Where are you at this time?

A. In my room. It's the, probably the corner closest to the driveway of the house.

Q. Are you in bed?

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A. Yes.

Q. After Willie's truck leaves, did you go back to sleep?

A. Yes.

Q. What happens next?

A. The next thing I remember is Randy waking me up and asking me to make sure I'd set the clock because he needed to get up earlier than usual because he was, had to

stop at where he was staying with my husband's, where ever my husband was residing, Randy was staying with him.

And he had to go there to get his work clothes, because he just had his dress clothes on and he needed to leave earlier. So he wanted me to make sure I set the clock earlier than I'd planned on setting it.

Q. Are you married, Mrs. Guzek?

A. Yes, I am.

Q. Was you husband living with you at this time?

A. No.

Q. Where was he living?

A. At the Jackson Street address.

Q. How long had he been there?

A. Since late October.

Q. And this is June; correct?

A. Yep.

Q. The end of June? Did Randy explain--what time [Page 152] was this?

A. It sticks in my mind, I have a digital clock that has a digital read out, 2:16 sticks in my mind. I believe that's when I, what I saw on the clock when Randy came in.

A lot of times when my kids come in, I will focus on the clock to see what time it is. And 2:16 sticks in my mind.

And then, I can set my clock two ways, two alarms on it. So I set both alarms. And it's got a feature on it that music comes out ten minutes before the alarm actually sounds.

I set the other for 4:30, the other for about five minutes after. When you set the alarm, when you test it, you actually test and it reads out what time you are setting it.

Q. Why did you set it for 4:30?

A. Because he had, to get time to go and get his clean clothes, his work clothes.

Q. Did he tell you when he had to be to work?

A. He said he had to be at work early.

Q. Did he tell you to set it at 4:30?

A. We planned on setting it for 5 o'clock. Then he came, I assuming he was figuring that he would go home that night, but when he didn't, that he'd had to get his [Page 153] work clothes and had to have more time to do that.

Q. Uh-huh. Did he indicate that, in other words, he indicated he was going to stay at your house?

A. Yes, that he was beat, had to stay.

Q. Okay.

Q. Did the alarm work?

A. Oh, yes. It, the radio came on at 20 after 4, and I called to Randy, and he wasn't answering. I called him several times, finally I had to get up and go out and shake him awake.

He was sleeping on the love seat on the deck, and covers were coming off and the dog was on the covers on the floor. And I got him up, he got up and went to the bathroom, and I went back to bed and he drove away.

Q. Did you hear him drive away?

A. Yes, I did.

Q. Did you see him any more that day?

A. No, sir, I did not.

Q. Okay.

A. Could I say there --

MR. BROWN: Objection, not responsive.

THE COURT: Wait for another question.

A. I'm sorry.

MR. KITTREDGE: Q. Just kind of checking here. You telling the truth?

[Page 154]

A. Yes, sir.

Q. Would you lie for you son?

A. No, I would not.

MR. KITTREDGE: No more questions.

CROSS EXAMINATION

BY MR. BROWN:

Q. Mrs. Guzek, the Defendant moved over to the Jackson Street residence approximately March of 1987?

A. Yes, sir.

Q. When did you first realize that the Housers had been murdered?

A. I'm not sure if I heard it on the news on television or radio. Usually I wake up to the radio every morning.

I could have heard it on the radio. It seems to me that Randy had called me a couple days after the fact saying that that was, the people that were killed were Ann Houser's relatives.

And Ann Houser had, was an acquaintance of Randy's, that she had come, she was also an acquaintance of my daughter's and she had spent a day overnight at our house.

Q. You didn't have any reason to look back on Sunday, June 28th and figure out what had occurred until they came up with the search warrant to you residence?

[Page 155]

A. This is true.

Q. You had that Sunday off and the next day, June 29th, off?

A. Yes.

Q. Do you recall how many Sundays, Sunday and Monday combinations you had off during that period of time?

A. Up to that time, I had almost every Sunday-Monday off. I was, I'm head sales girl and the person has the right to have the right to have the preferable days off. And that was the best that worked for the schedule of the bakery.

Q. Did you testify at the grand jury, ma'am, last October?

A. Yes, I did.

Q. Do you remember telling the Deschutes county grand jury that your days off had just changed?

A. That they had been Sunday-Monday, and that I was working on going on vacation and I'd arranged with my manager, the bakery manager that I could take Sunday-Monday off, then I would work straight through till the following, through the following Thursday.

Because I would work Tuesday, Wednesday, Thursday, Friday, Saturday, Sunday, Monday, Tuesday, Wednesday, Thursday, and then I would be able to take the [Page 156] Fri-

day and Saturday off, my week's vacation and then Sunday and Monday. I'd prearranged this with my baker.

Q. So did you tell the grand jury that your days off had just changed on June 28th, or did you not say that?

A. I don't understand.

Q. Did you tell the grand jury that your days off had just changed on June 28th?

A. I, why would I say they were, would change on June 28th? I don't understand that exact question.

Q. Okay.

A. If that's what I said, I don't, I don't recall having said that.

Q. Okay. You didn't actually see you son from about 2:30 that morning until 4:30 that morning; is that accurate?

A. Right.

Q. Did you see him the day prior?

A. Saturday?

Q. Yes.

A. I was at work, I don't believe I did, no, sir.

Q. When did you see him again?

A. Randy?

Q. Yes, after Sunday?

A. After Sunday?

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Q. Yes.

A. The next that I know of exactly is Wednesday, he possibly could have come by my job, which many times he did after he had got off his shift where he was working.

When he got back to Redmond, he would stop in at the bakery many times. But Wednesday particularly, he'd asked if I wanted to go into town to have a hamburger with Grandpa and Grandma.

A. Were you aware that you son went to Reno sometime later that week?

A. After the fact, yes, sir.

Q. Now you talked about you son, Danny, having been there with a friend?

A. Yep.

Q. Was he there the next day when you got up?

A. Danny?

Q. Yes.

A. Yes.

Q. And why don't you tell us about that, what were the circumstances, who got up first between yourself and your son Danny?

A. I do not recall who got up first. That being a day off, I slept in,. 7:30 is sleeping in.

MR. KITTREDGE: I believe this is beyond the scope of Direct, Your Honor. Objection.

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THE COURT: You want to be heard on that?

MR. BROWN: Well, they walked right up to the time and day. I'm talking about just testing her recollection on that.

THE COURT: Well, I will overrule.

MR. BROWN: Q. Do you remember telling the Deschutes County grand jury that you would say he was gone definitely when you got up that day?

A. That I said Danny was gone?

Q. Yes.

A. I do not recall that, no, sir.

Q. You remember telling the grand jury that you thought that he had, you son Danny had gone to Portland that particular day?

A. I don't recall having said that. I may have said that, I don't recall though.

Q. Well, did you see your father-in-law that day, Sunday, June 28th?

A. Yes.

Q. What time of the day did you see him?

A. When we were burning weeds in the morning.

Q. Do you have anything in writing, ma'am, as to what occurred on June 28th?

A. At, I don't understand what --

Q. I'm sorry, I didn't state it very well. Did [Page 159] you write anything down back at that period as to what occurred on June 28th?

A. No, sir.

Q. Do you remember, do you know any State Police officers by the name of Lynn Fredrickson?

A. Yes, sir.

Q. Do you recall speaking with Detective Fredrickson on August 31st, 1987?

A. The dates I can't be specific, but I recall having talked to Mr. Fredrickson, yes.

Q. Do you recall on that date, August 31st, telling the Detective Fredrickson that you work the Defendant up at 5:30 am?

A. He's--no, sir.

Q. I need to specify, you don't remember it or you didn't say that?

A. I didn't say that.

Q. Do you remember taking to Detective Fredrickson and Detective Little in November, November 19th, 1987?

A. Fredrickson and Little together?

Q. Yes, I believe so. Or at least Fredrickson?

A. The dates I cannot recall precisely as to when I would have talked to different officers. Usually, Mr. Fredrickson came by my employment numerous times.

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I'm not sure if that's the time he said he wanted to talk to me about my daughter, and he came up to our house, and all he talked about, he talked about what transpired that day of the killing.

We never talked about Tammy other that he said something about she was at camp or that was, that may have been that time.

Q. Mrs. Guzek, did you tell Detective Fredrickson on November 19th, 1987, that you only had one Sunday and Monday combination off during June of 1987?

A. No, sir.

Q. Do you remember telling detective Fredrickson on November 19th 1987, that you only had that one Sunday and Monday off in June of 1987, and if you had more than one Sunday and Monday off during that month, then you'd have to say that you were wrong about June 28th or confused about that date?

A. No, sir.

Q. Do you know a lady by the name of Donna Thom?

A. Yes, I do.

Q. She's about 40 years of age, I believe?

A. Yes.

Q. Does she work with you?

A. She does.

Q. How long has she worked with you?

[Page 161]

A. I believe since April.

Q. Would that be April of last year, I believe?

A. Yes, sir.

Q. Did you ever talk with her about your son's arrest?

A. I probably talked to all of the employees at work in regards to the case.

Q. Did you ever recall speaking with Mrs. Thom personally, just you and her, about the Defendant and the particular weekend we have been talking about here?

A. As far as recollection of a specific conversation of that, no, but I say I have talked to all of the employees at various times.

Q. I'm sorry. Go about a month after your son was arrested. Do you remember having a conversation with her alone about you son?

A. Time-wise I do not recall, no sir.

Q. Do you remember telling Mrs. Thom about a month after your son's arrest that the Defendant was home all weekend with you, the weekend of the murders?

A. No, sir. Not at all.

Q. You didn't say it or you don't recall it?

A. I did not say that.

Q. Do you recall telling Mrs. Thom that he was home all that weekend except for a half hour when he went [Page 162] on a short ride with a friend?

A. Not at all.

Q. You thought it was to test drive a car. Remember anything about that?

A. None whatsoever. It's totally foreign, what you are saying is totally foreign to me.

Q. You remember Mrs. Thom asking you why you didn't call the police and tell them about the fact that the Defendant was home with you the whole time?

A. In part of the conversation, that I have talked to with different people, shall I, at that point I had not been contacted by the police as to what I could attest to.

Q. My question was did you tell her about a month after your son's arrest, excuse me, did she tell you about a month

after your son's arrest, "why didn't you go call the police and tell them about this, if he was there all weekend?"

A. I do not recollect her saying such a thing.

Q. You remember telling her as part of the same conversation "wouldn't you lie if it was your son?"

A. No, sir. Absolutely not. I wouldn't do it.

Q. Well, did you tell her that?

A. No, sir.

MR. BROWN: No further questions.

REDIRECT EXAMINATION

[Page 163]

BY MR. KITTREDGE:

Q. Mrs. Guzek, when was the first time you were ever contacted by the police?

A. I cannot recall. It was quite a while after, I believe, other than Mr. Fredrickson, and I don't recall when his visits were, the grand jury was probably the first time that I actually, other than talking to your investigator, I think that grand jury maybe.

Q. You recall when the grand jury, when you went to grand jury?

A. It was in the fall, October or November, I think.

Q. So several months after this incident?

A. Yes.

Q. Before any police officer ever contacted you at all?

A. That is true.

Q. Were officers at you home on January, or July 9th?

A. Yes, they were.

Q. Did anybody ask you what you had to say about this case?

A. Not if I knew anything, where Randy was or, no, they never asked me. They asked if Randy had brought things into the house and I said he did not.

[Page 164]

Q. Are there outbuildings on the property where you live?

A. Yes, sir, many.

Q. Do you , do you control those buildings?

A. No, sir.

Q. Who does?

A. My husband had his personal things in there, and he kept them locked from me.

Q. Is this something that's happened since your separation?

A. He had them locked prior. He changed locks numerous times, but he, it was, he had changed all the locks since the separation again, yes.

Q. But he had them locked with his locks long before you separated?

A. Yes, sir.

Q. Did you have access to any of those outbuildings?

A. No, sir.

Q. How many times have you been interviewed since October or November concerning this incident?

A. I cannot recall. There's numerous legal goings on, and I can not differentiate how many times I was approached on Randy's or Danny's or Tammy's.

Q. Did you see the police break the locks off of [Page 165] those outbuildings during the execution of the search warrant on July 9th?

A. Yes, I did.

MR. KITTREDGE: Okay, I have no more questions.

MR. BROWN: Nothing further.

THE COURT: Thank you, you can step down.

A. Can I hug my son?

MR. BROWN: Objection.

THE COURT: No, you can't.

MR. BROWN: I'd ask the Court for a short recess.

THE COURT: Want a a recess?

MR. KITTREDGE: Fine, yes.

THE COURT: Let's take about a ten minute recess. The Jury's excused.

THE COURT: We'll be in recess ten minutes.

(recess)

Be seated. I want Counsel to understand when I say it's ten minutes, I want you back at counsel table before the ten minutes are up. I'm tired of having the Bailiff chase all over the courthouse to find Counsel. Let's have the jury.

MR. KITTREDGE: Defense rests, Your Honor.

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